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February 5, 2008

Federal Trade Commission/
Office of the Secretary,
Room H-135 (Annex O),
600 Pennsylvania Avenue, NW.,
Washington, DC 20580.

RE: Green Guides Regulatory Review
16 CFR Part 260- Comment
Project No. P 954501

Dear Sir/Madame:

Georgia-Pacific LLC is one of the largest international manufacturers of forest products and chemicals for these products. Our manufacturing facilities are principally located in the United States, and the issues on environmental claims addressed in this broad solicitation of comments affect significantly our businesses and marketing efforts. Since the initial Green Guides in 1992 and subsequent updates, we have consistently commented on them as evidence of our interest on the subject matter. We commend the FTC for the timely review of the Guides in order to ascertain new environmental (and sustainability) claims that have been emerging in the last few years. We also caution the FTC that albeit not perfect, the present rules in the Guides have served business and consumer well. Thus, this opportunity should not be used to revisit already sound, approved and time-tested interpretations that are already integral part of the environmental marketing lexicon. There are few cases pending since 1998 and new ones requiring the expansion of the Guides along the same direction already established. Entirely new cases are few but challenging and our analysis of the review contents firmly makes us believe that the conventional, practical substantiation demanded on claims would go a long way in resolving the pending issues. We have used question (7) to group these new issues requiring attention and action by FTC.

III- Issues for Comments

A- General Issues

- (1) Is there a continuing need for the Guides? Why or why not? The Guides have been in effect for fifteen (15) years and the latest revision for almost ten (10) years. They have provided the needed guidance for making environmental claims on the topics of most interest, helping achieve a cohesive and consistent body of information and instruction which is used across the United States and reflected in most of the similar guides in other

countries. Even the ISO standards on environmental management having to do with labels such as ISO 14020, 14021, 14024, etc. reflect directly or indirectly the FTC guidance. US delegates in the developing of these standards made sure they were consistent with the intent and content of the Guides. The manufacturing businesses, and the marketers in these businesses, have accepted and implemented these Guides. We do not know of any major problems or complaints that have occurred during this long period regarding the use of the Guides. Discontinuing them will create costly market disruption and the "creeping" back to conditions pre-1992 which created the need for the Guides. The interpretation of terms in the Guides are now part of the environmental marketing lexicon and FTC must be careful not to destroy this acquired value by revisiting unnecessarily these established terms.

(2) What benefits have the Guides provided to consumers? What evidence supports the asserted benefits? The Guides have allowed the consumer (customer) to have more confidence in the text used for the most common environmental claims made on relevant product matters. Its guidance, coupled with enforcement has been very successful in minimizing unfair competition and deception based on environmental marketing and claims. A broad answer to the question of supporting evidence is the marked reduction and even absence, for long periods of time, of reports on unfair claims or complaints submitted to the FTC. On the latter, we believe the FTC's own data will corroborate what is a generalized opinion of product marketers and the general public, The absence of repeated reports of problems in the news media gives consumers, indirectly, confidence that these types of claims are made in a valid manner.

(3) What modifications if any, should be made to the Guides to increase their benefits to consumers? We believe the Commission realizes that most of the consumers do not have the interest and time for a careful examination of the "rules" governing the valid statement of a given claim. The two main factors that would drive benefits to the consumer are a) the perception or knowledge that such claim is addressed by the Guides and b) that the news media is not reporting incidents about the claim. In this sense, one of these two factors is generally taken care of, for the benefit of the consumer, by the news media. The other, information on the claims which are "guided" by the Commission, is lacking. We respectfully suggest a FTC campaign of information to the general public or the adding to the claim the qualifier "*According to FTC Green Guides*". We believe that once FTC rules on the matter of claims in the market place, it does have a certain obligation to the protected community to let it be known, in their web site, via periodic information, alerts, etc.

The Guides need careful expansion into areas left pending since the 1998 update and to cover other emerging issues in environmental claims since then. That expansion must be done carefully in selected areas to avoid disrupting the usefulness of the Guides as we noted above and in the following comments on items (a) to (c) of the proposal;

(a) evidence supporting the absence of proper information for the general consumer is rather obvious. Members of the general public do not read 16 CFR part 260. Additional information must be provided to increase public awareness.

(b) in the first correcting alternative, the cost will be on the Commission; in the second alternative it is anticipated it will be very small

(c) as explained above, the consumer will benefit by specific added information to the claim

(d) the Guides should be expanded to address pending issues and new issues. We submit that the resolution on claims about the use of life cycle assessment to declare product superiority needs the proper guidance of FTC now that international standards on the matter are widely developed and accepted. Likewise, "X number of trees saved" is so unsupported by reason and calculation that a ruling is necessary from the FTC on the matter.

(4) What impacts have the Guides had on the flow of truthful information to the consumers and on the flow of deceptive information to the consumers? We believe the Guides have impacted positively on the flow of truthful information to consumers while decreasing the occurrence of deceptive or unacceptable information. They have also increased the awareness of marketers on other claims not covered by the Guides and the realization of the need to be transparent and clear in the claim and to have it backed by proper substantiation or evidence.

(5) What significant costs have the Guides imposed on consumers? We consider the cost has been minimal, in fact nothing that should have not been incurred otherwise to meet the FTC Act, section 5, requirements.

(6) What modifications, if any, should be made to the Guides for the Guides to reduce the cost imposed on consumers? Aside from the need to keep up with the times, and expand in selected areas, the cost of the regulations is very small. There is a benefit to marketers that translate in reduced total costs per error correction, recalls, etc. We do not have further comments in items (a) and (b).

(7) Please provide any evidence that has become available since 1998 concerning consumer perception of environmental claims, including claims not currently covered by the Guides. Does this new information indicate that the Guides should be modified? If so, why, and how?

7.1-In the 1998 update it was recognized that there was a need to address the claims of the use or study results based on life cycle assessment for comparing products. Since then, the international expert community in life cycle assessment developed and agreed on requirements for making comparisons or assertions to the public. They are reflected in the series of ISO 14040 and 14044:2006 standards. They provide specific requirements and examples for application of the standard. For assertions or comparisons of products, the impact assessment phase of the LCA must be completed as well as a critical review process. In these last years, false claims of product superiority have been made based only on the inventory phase of the LCA and alleging compliance with ISO standards.

The use of these standards is worldwide and applied and recognized by environmental agencies including US EPA, the NTIS, etc. The time is ripe to recognize the use of the ISO 14040 series standards when comparing products and in particular the need to include the life cycle impact assessment phase of the LCA as one essential requirement in asserting or comparing products. There is no other documentation or standard of the same quality and status, and wide recognition. Claims based on life cycle inventory alone, without an impact assessment study are deceptive since the same ISO standard makes clear that claims of product comparisons require the impact assessment phase and a

critical review process. The above is even a more pressing need when the emerging concept of "carbon foot print" is introduced in some cases to the life cycle of the product without proper consideration of standard rules on allocation, recycling, etc.

7.2- the proper use of renewable materials and renewable energy could be improved with a more specific guidance on frame of time for specific materials.

7.3- although very difficult, the use of sustainable could be better framed to avoid deceiving or improper claims around sustainability. For example, if a product is manufactured from a renewable resource which extraction is certified as sustainable by accepted criteria and third-party verification, it follows then that use of the terms sustainable together with renewable would be acceptable. The FTC must make clear that the use of one number or index to represent a claim of sustainability is improper. More comments on the matter are offered under Specific Issues (2) ,below.

7.4- One issue not addressed before in the Guides and which needs urgent ruling is the use of the term "X trees saved". This outrageous claim is mostly misused when addressing recycling content or material saving in forest products. This expression is conceptually and technically in error and unacceptable . It appears as a crude example of political correctness. We must ask the claimant for a clarification of saving trees from what? From decay? From infestation, from drought ? from hurricanes? In addition, how are those alleged quantities derived? No explanation is provided where the trees are from. What is the species? What is the size of the trees? What was the pulping process used and its yield,? These questions are just example of the issues involved in making any such calculation. In the present circumstances, with a mix composition of virgin fiber and recycled fiber, it is impossible to trace back all these necessary elements to make a valid and accurate claim. The FTC Is urged to rule convincingly on the unacceptability of this deceptive claim.

(8) Please provide any evidence that has become available since 1998 concerning consumer interest in particular environmental issues. Does this new information indicate that the Guides should be modified? If so, why and how? If not, why not?

As indicated in (7) above, there are areas of interest for consumer that need addressing in the Guides for the first time. We consider these are expansions to the Guides to reflect new environmental issues, rather than modifications in the format and style of the Guides.

(9) What benefits, if any, have the Guides provided to businesses, and in particular to small businesses? What evidence supports the asserted benefits?

The Guides have provided business with great benefits by clarifying the way and manner that most critical environmental claims should be made and putting order to the then prevalent chaos about these types of claims. They also provided one set of Guides and removed the need for the various states promulgate their own rules which would have been a nightmare for everyone. Although we are a large business, we consider small business probably benefit ed even more from these Guides.

(10) What modifications, if any, should be made to the Guides to increase their benefits to businesses, and in particular to small businesses?

(a) What evidence supports your proposed modifications?

(b) How would these modifications affect the costs the Guides impose on

- businesses, and in particular on small businesses?
(c) How would these modifications affect the benefits to consumers?

In the above comments, we have indicated and will in the following general and specific comments, point out gaps of information that need to be filled and the manner in which that should be done. We submit that if heeded, they will result in increased benefits to business since they will inform the consumer properly in a value added way.

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- (11) What significant costs, including costs of compliance, have the Guides imposed on businesses, and in particular on small businesses? What evidence supports the asserted costs?

We consider that such costs are nil when considering similar measures that must be taken by marketers for compliance with section 5 of the FTC Act. If additional 3rd party certifications are added, then the costs will rise substantially without discernible value added. In cases of declaring environmental preference or superiority of one product over other, the procedures recommended above in ISO 14040 add some costs. Nevertheless, we consider these costs are proportional to the importance and impact that such claims make in the market place, and the financial benefits and damage they could convey.

- (12) What modifications, if any, should be made to the Guides to reduce the costs imposed on businesses, and in particular on small businesses?

(a) What evidence supports your proposed modifications?

(b) How would these modifications affect the benefits provided by the Guides?

In the above comments, we have indicated and will in the following of the general and specific comments, pointed out gaps of information that need to be filled and the manner in which that should be done. We submit that if heeded they will result in reduced costs to business since they will inform the consumer properly in a value added sense.

- (13) What evidence is available concerning the degree of industry compliance with the Guides?

(a) To what extent has there been a reduction in deceptive environmental claims since the Guides were issued? Please provide any supporting evidence. Does this evidence indicate that the Guides should be modified? If so, why, and how? If not, why not?

(b) To what extent have the Guides reduced marketers' uncertainty about which claims might lead to FTC law enforcement actions? Please provide any supporting evidence. Does this evidence indicate that the Guides should be modified? If so, why, and how? If not, why not?

Our experience in the last decade, based on comparison of the claims made by companies in the same industrial sector, is that the Guides are observed with a high degree of consistency for the pertinent claims of that industrial sector. We cannot offer any statistics on the matter, except the apparent few or no complaints to the FTC on these specifics.

- (14) Are there claims addressed in the Guides on which guidance is no longer needed? If so, explain. Please provide supporting evidence.

We can not identify any

- (15) What potentially unfair or deceptive environmental marketing claims, if any, are not covered by the Guides?

(a) What evidence demonstrates the existence of such claims?

(b) With reference to such claims, should the Guides be modified? If so, why, and how? If not, why not?

The Guides need expansion rather than modification of already settled terms. In (7) above from 7.1 to 7.4, we have provided specific issues requiring attention by the FTC. The present Guides do not address deceptive claims on these issues ..

(16) What modifications, if any, should be made to the Guides to account for changes in relevant technology or economic conditions? What evidence supports the proposed modifications?

In the above we have identified already certain issues that should be addressed by the Guides. As indicated above, the Guides should be expanded, within the same format and direction, in order to accommodate the new issues as described in (7) above from 7.1 to 7.4

(17) Do the Guides overlap or conflict with other federal, state, or local laws or regulations? If so,
The FTC Guides should clarify by example that the characteristic of "renewable" must be ascribed to the material or fuel and not to the article itself say packaging.. Thus, it is not proper to ask if the packaging is renewable but if the material composing it in a majority by weight is renewable. ASTM D6866 could be used as the substantiation that the material is bio-based in certain %s,

how?

(a) What evidence supports the asserted conflicts?

(b) With reference to the asserted conflicts, should the Guides be modified? If so, why, and how? If not, why not?

(c) Is there evidence concerning whether the Guides have assisted in promoting national consistency with respect to the regulation of environmental claims? If so, please provide that evidence.

We do not have any such evidence

(18) Are there international laws, regulations, or standards with respect to environmental marketing claims that the Commission should consider as it reviews the Guides, such as the International Organization for Standardization ("ISO") 14021, Environmental Labels and Declarations--Self-Declared Environmental Claims? If so, what are they? Should the Guides be modified in order to harmonize with these international laws, regulations, or standards? If so, why, and how? If not, why not?

Ecolabel standards of the ISO 14020 series provide relevant guidance which generally respects FTC's Green Guides. ISO 14020, 14021 and 14024 are among the ones most closely related to the Guides. We believe that the Commission must address the issue of products labeled with environmental claims according to the ISO Standard 14021, whether imported or not, since several countries have adopted, or are in the process of adopting, the ISO 14021 Standard as their official Standard. Since the Guides were revised in 1998, the ISO finalized their environmental labeling standards as mentioned earlier. Specifically the ISO 14020 Standard (General Principles) and ISO Standard 14021 (Self Declared Claims) are relevant to the FTC Guides. Although great effort was employed by the US delegations to have these ISO Standards mirror the FTC Guides, there are a few minor deviations regarding the use of the Mobius Loop, the definition of Post-consumer fiber, the use of the term "reasonable proportion" vs. the FTC term "Substantial majority" when describing the accessibility of recycling and composting facilities. These items were presented to the Commission when the 14021 Standard was finalized. The question would be whether or not products, labeled in conformance with ISO 14021 International Standard, would be considered acceptable in the US market as labeled, or in violation of the FTC Guides.

In addition, there is a need to validate claims of product preference or environmental superiority. As indicated above, to fill the present gap in the Guides. The Guides should require compliance with provisions of ISO 14044 stressing the provision of conducting an impact assessment and a critical review. The ISO 14040 series contains examples in ISO 14049 and ISO 14047 that further facilitate the proper implementation of the inventory and impact assessment phases of LCA. Ecolabel type III, declarations, ISO 14025 refers to ISO 14040 series for validation of these declarations.

B. Specific Issues

(1) Should the Guides be revised to include guidance regarding renewable energy or carbon offset claims? If so, why, and what guidance should be provided? If not, why not?

(a) What evidence supports making your proposed revision(s)?

(b) What evidence is available concerning consumer understanding of the terms "renewable energy" and "carbon offset"?

(c) What evidence constitutes a reasonable basis to support each such claim?

We respectfully wish to note this one question links two different issues. Renewable energy is a characteristic of the fuel source while a carbon offset is the result of a dedicated action resulting in the reduction of GHG emissions and under certain qualifications.

Renewable energy is well recognized as biomass, wind, solar and hydro. Nuclear is not yet a renewable energy. Any claim of renewable energy must clarify the percentage from the total consumed by the product and the specific source e.g. wind, solar, etc. In the case of biomass, an indication that the sources are replenished in an overall regional or national scale should be available in the substantiation of the claim, not necessarily in its text.

In the companion notice in the FR of November 27, the FTC addressed the questions and issues around carbon offsets and RECs. We have commented separately on the contents of that announcement by its deadline of January 25. The emphasis of the action is on voluntary programs not on those already regulated by state or other agencies. Guidance on voluntary programs involving carbon offsets is very complicated. The claims for products are usually on the implication that carbon offsets were used but in fact they address claims about "carbon neutral" or "green electricity" or "zero carbon foot print" (or invisible foot print?) explicitly. Thus we submit that the guidance should be primarily on the environmental claim with the necessary substantiation and evidence as the secondary requirement. Accordingly, if a claim like "carbon neutral" or "green electricity" is made it must be accompanied with an e-mail or web site address of the marketer. Then, the link information for substantiation purposes should consist of these or similar elements given here as examples, a) the type of evidence backing-up the claim, b) the net emissions v. offsets, c) origin of the offsets; purchased own company projects, d) how they prepared for subsequent production, etc. FTC should try not to get into all details of an adequate substantiation but rather provide flexibility in offering such.

(2) Should the Guides be revised to include guidance regarding "sustainable" claims? If so, why, and what guidance should be provided? If not, why not?

(a) What evidence supports making your proposed revision(s)?

(b) What evidence is available concerning consumer understanding of the term "sustainable"?

(c) What evidence constitutes a reasonable basis to support a "sustainable" claim?

The issue of sustainability is very complex because it involves elements other than environmental issues with which the consumer and general public are more familiar. There is no clear understanding of the term or the subtleties involved and this is not only for the typical consumer but even among experts and business managers which view the process to move forward on sustainable practices in different ways.

A most popular term used around sustainability is not necessarily its definition but a description of what is "sustainable development" which is something more manageable. We submit that at this time, the Guides should discourage the unqualified use of the term sustainable and reserve it in a more constrained manner, for "sustainable manufactured" or "sustainable produced" and condition it to providing information about a company's, indicators and overall improvement on those indicators in time. If none of these requirements is met the claim is not fair and it is misleading. Moving forward by "baby steps" is better than an erroneous jump. An example of one program attempting to harmonize reporting on sustainability efforts and progress of companies is the Global Reporting Initiative in the Netherlands. Still, it is for companies not for products. A mix of these indicators, from the company and the product appears reasonable when considering the social and economic elements of sustainability, difficult to frame in one product line.

Use of sustainability indexes or ranking for products appear to be very unscientific and arbitrary at this moment, even more so when they may be used to compare differences between products for purchasing purposes. This is a ruling the FTC should consider making on this issue.

Still, the crux of the information is the progress made by a product manufacturer over time as a sign that the company "manufactures in a sustainable manner. The mere fact that a company reports publicly according to this program or another reputable one, is not the total or necessary justification for the validation of a sustainable claim.

We recognize the recommendation in the above is not the final answer and costs to the consumer should be kept in mind. In any new ruling.

(3) Should the Guides be revised to include guidance regarding "renewable" claims? If so, why, and what guidance should be provided? If not, why not?

(a) What evidence supports making your proposed revision(s)?

(b) What evidence is available concerning consumer understanding of the term "renewable"?

(c) What evidence constitutes a reasonable basis to support a "renewable" claim?

The matter of "renewable" has been served well by the Guides for many years. There is a good understanding by the consumer about what is renewable. Abiotic resources are clearly understood as renewable as well as water and air. The FTC Guides should clarify by example that the characteristic of renewable must be ascribed to the material or fuel and not to the article itself e.g. packaging.. Thus, it is not proper to ask if the packaging is renewable but rather if the material composing it in a majority by weight is renewable. When addressing materials used in articles, abiotic materials are renewable. Then ASTM D6866 may not need to be used as the substantiation that the material is bio-based.

Were FTC of the opinion that the term "renewable" can be attached to the product or article, then it may be necessary to use ASTM D-6866 to substantiate that indeed the majority of the article consists of renewable material.

Renewable energy is well recognized as biomass, wind, solar and hydro. Nuclear is not yet a renewable energy. Any claim of renewable energy must clarify the percentage from the total consumed by the product and the source e.g. wind, solar, etc. In the case of biomass, both as a resource material or energy, an indication that the sources are replenished in a rotation period for an overall regional or national scale should be available in the substantiation of the claim, not necessarily its text.

(4) The Guides provide that a recycled content claim may be made only for materials that have been recovered or otherwise diverted from the solid waste stream, either during the manufacturing process or after consumer use. Do the current Guides provide sufficient guidance for recycled content claims for textile products? If so, why? If not, why not, and what guidance should be provided? What evidence supports making your proposed revision(s)?

No comments since our company is not involved in textiles

(5) The Guides suggest that recycled content be calculated on the annual weighted average of a product. Should the Guides be revised to include alternative method(s) of calculating recycled content, e.g., based on the average recycled content within a product line, or an average amount of recycled content used by a manufacturer across many or all of its product lines? If so, why, and what is the appropriate method(s) of calculation? If not, why not? What evidence supports making your proposed revision(s)?

The annual weighted average of (the recycled content) of a product has served consumers well and the manufacturers otherwise would see increase costs and logistics and scheduling difficulties all of which would be added costs to the consumers. More recently, and for sectors consistently reporting high levels of recovery and recycling, the use of the annual weighted average for the specific company's business is gaining momentum. Further, in some recent cases, the use of an industry sector annual weighted average is being accepted as a default value. We submit the Guides could provide these three alternatives for expressing total recycled content.

The Guides at this moment in time should clarify that the claim requirements are for total recycled content. The subdivision into pre and post is of no value in today's world. Our industry is already recording extremely high recovery rates and any increase in total recycled content will be increases in the post-consumer content because that is essentially the only increase in recover fiber that is available. Pre and post claims should remain optional.

(6) The Guides provide that an unqualified claim that a product or package is degradable, biodegradable or photodegradable should be substantiated by competent and reliable scientific evidence that the entire product or package will completely break down and return to nature within a ``reasonably short period of time after customary disposal.'' Should the Guides be revised to provide more specificity with respect to the time frame for product decomposition? If so, why, and what should the time frame be? If not, why not? What evidence supports making your proposed revision(s)?

This complex topic needs some consideration since the degradability of the materials resides not only on the type of material but it would depend on the conditions in which it is stored or discarded. Different tests may indicate the material is degradable either bio or photo degradable or combination thereof. Nevertheless, modern landfills are in fact entombment facilities where air, light and water are excluded by strict design. In those conditions, degradability time far exceeds "the reasonable short period of time" of the Guides. And yet the material is still biodegradable! A better guidance should factor in not only the "reasonable short period of time after customer disposal" but also the conditions of disposal. For the difficulties noted in the above, the use of different terms as degradable either bio, photo or combination is meaningless without proper qualification.

Biodegradability should be considered an intrinsic property of the material or product rather than the results after the product is used. We submit that the term "biodegradable" etc., should be qualified according to a recognized test or standard. For packaging, EN 13427: 2004, offers a framework for packaging products

and within that framework, EN 13427:2000, is specific for biodegradation. There are also ISO standards, ISO 14855:1999 which provides quantitative results. We recognize the standard examples in this proposal are more specific for packaging but the concept of the proposal is the same for all pertinent products. As more customers have compost sites available to them, they are interested in whether or not a product that is normally disposed of in a landfill could be used in the composting facility. By providing the qualitative test results we should be able to qualify the compostability claims.

We hope these comments will be of help to the FTC in its timely review of the Guides, and we appreciate the opportunity to comment at the very beginning of this process. Please do not hesitate to contact me for any further clarification or information.

Sincerely,

Senior Manager, Product Policy & Assurance
GEORGIA-PACIFIC LLC.

Cc: